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PATENT
Attorney Docket No.: 082845000000US
Client Ref. No.: 131,652 PCT/US

Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

On 2-1-02

TOWNSEND and TOWNSEND and CREW LLP

By: [Signature]

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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Solomon Flax

Application No.: 09/830,830

Filed: April 30, 2001

For: PROCESS FOR PRODUCING
METAL-CONTAINING SULFIDE
ORES

Examiner: Not Yet Assigned

Art Unit: Not Yet Assigned

PETITION UNDER 37 CFR. §1.47(b)
NONSIGNING INVENTOR

Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicant, JOMA CHEMICAL AS, hereby petitions to make application on behalf of and as agent for the inventor, Dr. Solomon Flax, who refuses to execute this application for patent.

To meet the requirements of MPEP 409.03(b) [No Inventor Available], Applicant provides a Declaration signed by an authorized corporate officer of JOMA CHEMICAL AS (Appendix A), and an Application Data Sheet (Appendix B).

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02 FC:122
03 FC:205

130.00 CH
65.00 CH

To meet the requirements of MPEP 409.03(d) [**Proof of Unavailability or Refusal**], Applicant provides an Affidavit of Gilbert Goller avering that the inventor, Dr. Solomon Flax, made an express oral refusal to sign the application papers, because of a dispute that arose with Satec upon the termination of his employ therewith (Appendix C).

Pursuant to MPEP 409.03(e) [**Statement of Last Known Address**], Applicant states that the last known address of Dr. Solomon Flax is Rechov Neva Yaacov 102/5, Jerusalem, Israel 98350.

To comply with the requirements set forth in MPEP 409.03(f) [**Proof of Proprietary Interest**], Applicant submits that, as of the date the application was deposited in the Patent and Trademark Office, Applicant had sufficient proprietary interest in the subject matter to justify the filing of the application. Applicant provides a legal Memorandum (Appendix D) to the effect that a court of competent jurisdiction would by the weight of authority in that jurisdiction award title of the invention to JOMA CHEMICAL AS. Briefly, proprietary interest in this application transferred from Dr. Flax to SATECH ECOCHEM LTD., and then to JOMA CHEMICAL AS.

In support of the Memorandum, Applicant further provides an Affidavit of Gideon Kahana (Appendix E), a copy of Section 132 of the Israel Patents Law 1967 (Appendix F), a copy of the assignment of Israel patent application 131,652 from SATECH ECOCHEM LTD. to JOMA CHEMICAL AS (Appendix G). Applicant also includes a Statement Under 37 CFR § 3.73(b) establishing Applicant's right to take action with regard to this application (Appendix H). Based on the above, Applicant submits that a *prima facie* case has been made demonstrating proprietary interest in the subject matter of the application.

To meet the requirements of MPEP 409.03(g) [**Proof of Irreparable Damage**], Applicant submits that the instant filing date is necessary to make a claim for priority under 35 U.S.C. §119. Specifically, this application is the US national phase of PCT application number PCT/IL00/00513, filed August 29, 2000, which claims priority to Israel patent application number 131,652, filed August 30, 1999.

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The Commissioner is authorized to deduct the declaration surcharge fee, pursuant to 37 C.F.R. §1.492(e) of \$65.00 and the nonsigning inventor petition fee pursuant to 37 C.F.R. §1.47(b) of \$130.00 from the undersigned's Deposit Account No. 20-1430. Please deduct any additional fees from, or credit overpayment to, this same deposit account.

In view of the foregoing, Applicant submits that the conditions set forth by 37 C.F.R. §1.47(b) have been fully satisfied, and therefore JOMA CHEMICAL AS is entitled to make application on behalf of and as agent for the inventor, Dr. Solomon Flax. Grant of this Petition is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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Reg. No. 42,396

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